

By: Harris

S.B. No. 1220

A BILL TO BE ENTITLED

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AN ACT

relating to the Texas emissions reduction plan.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 386.001(2), Health and Safety Code, is amended to read as follows:

(2) "Affected county" includes:

- (A) Bastrop County;
- (B) Bexar County;
- (C) Caldwell County;
- (D) Comal County;
- (E) Ellis County;
- (F) Gregg County;
- (G) Guadalupe County;
- (H) Harrison County;
- (I) Hays County;
- (J) Henderson County;
- (K) Hood County;
- (L) Hunt County;
- (M) Johnson County;
- (N) [~~(K)~~] Kaufman County;
- (O) [~~(L)~~] Nueces County;
- (P) [~~(M)~~] Parker County;
- (Q) [~~(N)~~] Rockwall County;
- (R) [~~(O)~~] Rusk County;

- 1            (S) [~~(P)~~] San Patricio County;
- 2            (T) [~~(Q)~~] Smith County;
- 3            (U) [~~(R)~~] Travis County;
- 4            (V) [~~(S)~~] Upshur County;
- 5            (W) [~~(T)~~] Victoria County;
- 6            (X) [~~(U)~~] Williamson County; [~~and~~]
- 7            (Y) [~~(V)~~] Wilson County; and
- 8            (Z) any other county designated as an affected
- 9 county by commission rule because of deteriorating air quality.

10            SECTION 2. Section 386.053(d), Health and Safety Code, is  
11 amended to read as follows:

12            (d) The commission may propose revisions to the guidelines  
13 and criteria adopted under this section as necessary to improve the  
14 ability of the plan to achieve its goals. Revisions may include,  
15 among other changes, adding additional pollutants, adding vehicles  
16 and equipment that use fuels other than diesel, or adjusting  
17 eligible program categories, as appropriate, to ensure that  
18 incentives established under this chapter achieve the maximum  
19 possible emissions reductions. The commission shall make a  
20 proposed revision available to the public before the 45th day  
21 preceding the date of final adoption of the revision and shall hold  
22 at least one public meeting to consider public comments on the  
23 proposed revision before final adoption.

24            SECTION 3. Section 386.101(9), Health and Safety Code, is  
25 amended to read as follows:

26            (9) "Repower" means to replace an old engine powering  
27 an on-road or non-road diesel with a new engine, a used engine, or

1 electric motors, drives, or fuel cells[+]

2 [~~(A) a new engine that emits at least 30 percent~~  
3 ~~less than the oxides of nitrogen emissions standard required by~~  
4 ~~federal regulation for the current model year for that engine;~~

5 [~~(B) an engine manufactured later than 1987 that~~  
6 ~~emits at least 30 percent less than the oxides of nitrogen emissions~~  
7 ~~standard emitted by a new engine certified to the baseline oxides of~~  
8 ~~nitrogen emissions standard for that engine;~~

9 [~~(C) an engine manufactured before 1988 that~~  
10 ~~emits not more than 50 percent of the oxides of nitrogen emissions~~  
11 ~~standard emitted by a new engine certified to the baseline oxides of~~  
12 ~~nitrogen emissions standard for that engine; or~~

13 [~~(D) electric motors, drives, or fuel cells~~].

14 SECTION 4. Section 386.102(b), Health and Safety Code, is  
15 amended to read as follows:

16 (b) Projects that may be considered for a grant under the  
17 program include:

- 18 (1) purchase or lease of on-road or non-road diesels;
- 19 (2) emissions-reducing retrofit projects for on-road  
20 or non-road diesels;
- 21 (3) emissions-reducing repower projects for on-road  
22 or non-road diesels;
- 23 (4) purchase and use of emissions-reducing add-on  
24 equipment for on-road or non-road diesels;
- 25 (5) development and demonstration of practical,  
26 low-emissions retrofit technologies, repower options, and advanced  
27 technologies for on-road or non-road diesels with lower emissions

1 of oxides of nitrogen;

2 (6) use of qualifying fuel; [~~and~~]

3 (7) implementation of infrastructure projects; and

4 (8) replacement of on-road or non-road diesels with  
5 newer on-road or non-road diesels.

6 SECTION 5. Section 386.103(a), Health and Safety Code, is  
7 amended to read as follows:

8 (a) Any person as defined by Section 382.003 that owns one  
9 or more on-road or non-road diesels that operate primarily within a  
10 nonattainment area or affected county of this state or that  
11 otherwise contributes to the state inventory of emissions of oxides  
12 of nitrogen may apply for a grant under the program. The commission  
13 may adopt guidelines to allow a person other than the owner to apply  
14 for and receive a grant in order to improve the ability of the  
15 program to achieve its goals.

16 SECTION 6. Section 386.104(f), Health and Safety Code, is  
17 amended to read as follows:

18 (f) A proposed retrofit, repower, replacement, or add-on  
19 equipment project must document, in a manner acceptable to the  
20 commission, a reduction in emissions of oxides of nitrogen of at  
21 least 30 percent compared with the baseline emissions adopted by  
22 the commission for the relevant engine year and application. After  
23 study of available emissions reduction technologies, after public  
24 notice and comment, and after consultation with the advisory board,  
25 the commission may revise the minimum percentage reduction in  
26 emissions of oxides of nitrogen required by this subsection to  
27 improve the ability of the program to achieve its goals.

1 SECTION 7. Section 386.105, Health and Safety Code, is  
2 amended by adding Subsection (e) to read as follows:

3 (e) The commission may allow for the apportionment of  
4 credits associated with a project between the plan and another  
5 program or entity if the part of the credit assigned to the program  
6 that is part of the plan still meets any applicable  
7 cost-effectiveness criteria.

8 SECTION 8. Section 386.112(b), Health and Safety Code, is  
9 amended to read as follows:

10 (b) The program shall authorize statewide incentives for  
11 the reimbursement of incremental costs for the purchase or lease,  
12 according to the schedule provided by Section 386.113, of new  
13 on-road diesels that are certified by the United States  
14 Environmental Protection Agency or the California Air Resources  
15 Board to an emissions standard provided by Section 386.113 if the  
16 purchaser or lessee of the on-road diesel agrees to register the  
17 vehicle in this state and to operate the on-road diesel in this  
18 state for not less than 75 percent of the on-road diesel's annual  
19 mileage.

20 SECTION 9. Subchapter C, Chapter 386, Health and Safety  
21 Code, is amended by adding Section 386.115 to read as follows:

22 Sec. 386.115. MODIFICATION OF VEHICLE ELIGIBILITY. After  
23 evaluating the availability of vehicles meeting the emissions  
24 standards and after public notice and comment, the commission, in  
25 consultation with the advisory board, may expand the program to  
26 include other on-road vehicles, regardless of fuel type used, that  
27 meet the emissions standards, have a gross vehicle weight rating of

1 10,000 pounds or more, and are purchased or leased in lieu of a new  
2 on-road diesel.

3 SECTION 10. Section 386.252, Health and Safety Code, is  
4 amended to read as follows:

5 Sec. 386.252. USE OF FUND. (a) Money in the fund may be  
6 used only to implement and administer programs established under  
7 the plan and shall be allocated as follows:

8 (1) for the diesel emissions reduction incentive  
9 program, 72 percent of the money in the fund, of which not more than  
10 [~~three percent may be used for infrastructure projects and not more~~  
11 ~~than~~] 10 percent may be used for on-road diesel purchase or lease  
12 incentives;

13 (2) for the motor vehicle purchase or lease incentive  
14 program, 15 percent of the money in the fund;

15 (3) for the energy efficiency grant program, 7.5  
16 percent of the money in the fund;

17 (4) for the new technology research and development  
18 program, 7.5 percent of the money in the fund, of which up to  
19 \$250,000 is allocated for administration, up to \$200,000 is  
20 allocated for a health effects study, and \$500,000 is to be  
21 deposited in the state treasury to the credit of the clean air  
22 account created under Section 382.0622 to supplement funding for  
23 air quality planning activities in affected counties; and

24 (5) for administrative costs incurred by the utility  
25 commission, the commission, the comptroller, and the laboratory,  
26 three percent.

27 (b) Up to 25 [~~15~~] percent of the money allocated under

1 Subsection (a) to a particular program and not expended under that  
2 program by January [~~March~~] 1 of the second fiscal year of a fiscal  
3 biennium may be used for another program under the plan as  
4 determined by the commission in consultation with the advisory  
5 board.

6 SECTION 11. Section 151.0515, Tax Code, is amended by  
7 amending Subsections (a) and (c) and adding Subsection (b-1) to  
8 read as follows:

9 (a) In this section, "equipment" includes all off-road,  
10 heavy-duty diesel equipment [~~classified as construction~~  
11 ~~equipment~~], other than implements of husbandry used solely for  
12 agricultural purposes, including:

- 13 (1) pavers;
- 14 (2) tampers/rammers;
- 15 (3) plate compactors;
- 16 (4) concrete pavers;
- 17 (5) rollers;
- 18 (6) scrapers;
- 19 (7) paving equipment;
- 20 (8) surface equipment;
- 21 (9) signal boards/light plants;
- 22 (10) trenchers;
- 23 (11) bore/drill rigs;
- 24 (12) excavators;
- 25 (13) concrete/industrial saws;
- 26 (14) cement and mortar mixers;
- 27 (15) cranes;

- 1 (16) graders;
- 2 (17) off-highway trucks;
- 3 (18) crushing/processing equipment;
- 4 (19) rough terrain forklifts;
- 5 (20) rubber tire loaders;
- 6 (21) rubber tire tractors/dozers;
- 7 (22) tractors/loaders/backhoes;
- 8 (23) crawler tractors/dozers;
- 9 (24) skid steer loaders;
- 10 (25) off-highway tractors; ~~and~~
- 11 (26) Dumpsters/tenders;
- 12 (27) mining equipment; and
- 13 (28) drilling equipment used in drilling an oil, gas,
- 14 or water well.

15 (b-1) In each county in this state, a surcharge is imposed  
16 on the storage, use, or other consumption in this state of new or  
17 used equipment. The surcharge is at the same percentage rate as is  
18 provided by Subsection (b) on the sales price or the lease or rental  
19 amount of the equipment.

20 (c) The surcharge shall be collected at the same time and in  
21 the same manner and shall be administered and enforced in the same  
22 manner as the tax imposed under this chapter ~~[subchapter]~~. The  
23 comptroller shall adopt any additional procedures needed for the  
24 collection, administration, and enforcement of the surcharge  
25 authorized by this section and shall deposit all remitted  
26 surcharges to the credit of the Texas emissions reduction plan  
27 fund.

1           SECTION 12. Section 224.153(c), Transportation Code, is  
2 amended to read as follows:

3           (c) If federal highway funding will not be negatively  
4 affected, the commission by rule may provide that a [A] motor  
5 vehicle displaying the "low-emissions vehicle" insignia authorized  
6 by Section 502.186 in an easily readable location on the back of the  
7 vehicle is entitled to travel in a preferential car pool or high  
8 occupancy vehicle lane designated under this section regardless of  
9 the number of occupants in the vehicle. This subsection expires  
10 August 31, 2008.

11           SECTION 13. (a) Except as provided by Subsection (b), this  
12 Act takes effect immediately if it receives a vote of two-thirds of  
13 all the members elected to each house, as provided by Section 39,  
14 Article III, Texas Constitution. If this Act does not receive the  
15 vote necessary for immediate effect, this Act takes effect  
16 September 1, 2003.

17           (b) Section 11 of this Act takes effect on the first day of  
18 the first month beginning on or after the earliest date on which  
19 this Act may take effect if it receives a vote of two-thirds of all  
20 the members elected to each house, as provided by Section 39,  
21 Article III, Texas Constitution. If this Act does not receive the  
22 vote necessary for effect before September 1, 2003, Section 11 of  
23 this Act takes effect September 1, 2003. The comptroller of public  
24 accounts may adopt emergency rules for the implementation of  
25 Section 11 of this Act.